

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

FIX MY PHONE PLUS FRANCHISE,)
LLC,)
)
 Plaintiff,)
)
 v.)
) Case No. CIV-23-795-PRW
FIX MY PHONE 63rd & MAY LLC; and)
5924, LLC,)
)
 Defendants.)

ORDER

Before the Court is the parties' Joint Application for Entry of Agreed Injunction Order (Dkt. 27). Plaintiff filed its Complaint (Dkt. 1) and Motion for Preliminary Injunction (Dkt. 7) seeking to enjoin Defendants from continued use of Plaintiff's trademarks and trade dress. The Court previously continued a hearing on the preliminary injunction to allow the parties to negotiate, and the parties have since initiated arbitration proceedings. To resolve the matter before this Court, the parties move for entry of this Agreed Injunction Order. The Court finds that the agreement satisfies the requirements for a permanent injunction.¹

In accordance with the parties' agreed language below, the Motion for Preliminary Injunction (Dkt. 7) is **DENIED AS MOOT**; and this action is **DISMISSED WITHOUT**

¹ See, e.g., *Sw. Stainless, LP v. Sappington*, 582 F.3d 1176, 1191 (10th Cir. 2009).

PREJUDICE. The Court retains jurisdiction to enforce the provisions of this Agreed Injunction Order. Upon agreement of the parties, the Court **ORDERS** as follows:

1. Plaintiff Fix My Phone Plus Franchise, LLC (“FMPP”) filed a Complaint (Dkt. 1) and Motion for Preliminary Injunction (Dkt. 7) before this Court, seeking to enjoin Defendants from continued use of FMPP’s registered and unregistered trademarks, as well as FMPP trade dress, which were previously used by Defendants at two FMPP franchise stores located in Oklahoma City, Oklahoma.

2. Defendants have turned over the stores and are no longer using the marks or trade dress. Nevertheless, FMPP is permitted an injunction pursuant to the parties’ franchise agreements.

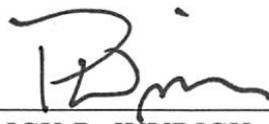
3. Upon the agreement of the parties, Defendants are enjoined from continued use of FMPP’s registered and unregistered trademarks, as well as FMPP’s trade dress, as set forth in FMPP’s Complaint and Motion for Preliminary Injunction.

4. The parties agree this Order is entered without prejudice to their claims and counterclaims for damages currently pending in arbitration or as may be raised in arbitration before the American Arbitration Association, and the Order shall not be used as evidence in the arbitration proceeding for or against either party.

5. With the entry of this Order, and in accordance with the parties’ Franchise Agreements and arbitration provisions therein, this matter is concluded with the entry of this Order.

6. Any claim by either party for attorney’s fees and costs are reserved for arbitration and are not matters to be addressed by this Court.

IT IS SO ORDERED this 14th day of December 2023.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE